

Notice of Allowability**Application No.**

10/586,659

Applicant(s)

OHKI, MITSU HARU

Examiner

CHRISTOPHER K. PETERSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a RCE filed 12/30/2010.
2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
3. ☒ The allowed claim(s) is/are 1,3,4,7-9 and 11-20.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20111212</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

Election/Restrictions

1. Claims 1, 3, 4, 19, and 20 are allowable. The restriction requirement species, as set forth in the Office action mailed on 2/17/2010, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 7-9, 11-18 are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Charles Huang on 12/14/2011.

The application has been amended as follows:

1. (Current Amended) A control method provided for a photographing apparatus having a first mode for generating an output image by taking one input image and a second mode for generating an output image by taking a plurality of input images successively without using a binning function, the control method comprising:

comparing at least one of a first exposure time, which is an exposure time of a photographing operation to take an input image when said photographing operation is to be carried out in said first mode, and a second exposure time, which is an exposure time of a photographing operation to take a plurality of input images without using said binning function when said photographing operation is to be carried out in said second mode, with a first threshold value;

determining whether or not said first exposure time is equal to or shorter than said first threshold value;

making a first decision to take an image in said first mode if said first exposure time is equal to or shorter than said first threshold value;

~~comparing said second exposure time with~~ selecting a second threshold value different from said first threshold value; and

making a second decision to take an image in said second mode if said second ~~exposure time~~ threshold value is equal to or shorter than said ~~second~~ first threshold value.

3. (Current Amended) A control method provided for a photographing apparatus in accordance with claim 1, wherein said first threshold value is a limit of exposure time not causing effects of hand trembling on said input image taken in said first mode.

4. (Current Amended) A control method provided for a photographing apparatus in accordance with claim 1, wherein said first threshold value is a value based on a focal distance used at an image-pickup time to take said input image

5. (Cancelled)

6. (Cancelled)

7. (Current Amended) A control method provided for a photographing apparatus in accordance with claim [[5]] 1, wherein said second threshold value is a value based on a focal distance used at an image-pickup time to take said input image.

8. (Current Amended) A control method provided for a photographing apparatus in accordance with claim [[5]] 1, said control method further including

a third decision step of making a decision to take an image in said first mode if ~~said determination result produced at said first determination step indicates that said first exposure time~~ second threshold value is neither equal to nor shorter than said first threshold value ~~and said determination result produced at said second determination step indicates that said second exposure time is neither equal to nor shorter than said second threshold value.~~

9. (Current Amended) A control method provided for a photographing apparatus in accordance with claim [[5]] 1, wherein:

said second ~~determination step further includes a step of producing a result of determination as to whether or not said second exposure time is equal to or longer than~~ threshold value the larger one of a threshold value based on a proper exposure time

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found from the brightness of a photographing object and a threshold value based on an image-pickup

interval of successive image-pickup operations carried out by said photographing apparatus at a highest speed; and

~~said second decision step is a step of making a decision to take an image in said second mode if said determination result produced at said second determination step indicates that said second exposure time is equal to or shorter than said second threshold value and that said second exposure time is equal to or longer than said larger one of said threshold value based on a proper exposure time found from the brightness of said photographing object and said threshold value based on said image-pickup interval of successive image-pickup operations carried out by said photographing apparatus at a highest speed.~~

10. (Cancelled)

17. (Current Amended) A control method provided for a photographing apparatus in accordance with claim 1, said control method comprising:

a determination step of producing a result of determination as to whether or not said second exposure time is equal to or longer than a third threshold value based on a proper exposure time found from the brightness of a photographing object;

a first decision step of making a decision to take an image in said second mode if said determination result produced at said determination step indicates that said second exposure time is equal to or longer than said third threshold value; and

a second decision step of making a decision to take an image in said first mode if said determination result produced at said determination step indicates that said second exposure time is neither equal to nor longer than said third threshold value.

18. (Current Amended) A control method provided for a photographing apparatus in accordance with claim 1, said control method comprising:

a determination step of producing a result of determination as to whether or not said second exposure time is equal to or longer than a third threshold value based on an image-pickup interval of successive image-pickup operations carried out by said photographing apparatus at a highest speed;

a first decision step of making a decision to take an image in said second mode if said determination result produced at said determination step indicates that said second exposure time is equal to or longer than said third threshold value; and

a second decision step of making a decision to take an image in said first mode if said determination result produced at said determination step indicates that said second exposure time is neither equal to nor longer than said third threshold value.

19. (Current Amended) A control apparatus provided for a photographing apparatus having a first mode for generating an output image by taking one input image and a second mode for generating an output image by taking a plurality of input images successively without using a binning function, wherein said control apparatus comprises a control circuit configured to compare at least one of a first exposure time, which is an exposure time of a photographing operation to take an input image when said photographing operation is to be carried out in said first mode, and a second exposure

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time, which is an exposure time of a photographing operation to take a plurality of input images without using a binning function when said photographing operation is to be carried out in said second mode, with a first threshold value;

determine whether or not said first exposure time is equal to or shorter than said first threshold value;

make a first decision to take an image in said first mode if said first exposure time is equal to or shorter than said first threshold value;

~~compare said second exposure time with~~ selecting a second threshold value different from said first threshold value; and

make a second decision to take an image in said second mode if said second ~~exposure time~~ threshold value is equal to or shorter than said ~~second~~ first threshold value.

20. (Current Amended) A non-transitory computer-readable medium tangibly storing a control program to be executed by a computer for controlling a photographing apparatus having a first mode for generating an output image by taking one input image and a second mode for generating an output image by taking a plurality of input images successively without using a binning function, the control program comprising steps of

comparing at least one of a first exposure time, which is an exposure time of a photographing operation to take an input image when said photographing operation is to be carried out in said first mode, and a second exposure time, which is an exposure time of a photographing operation to take a plurality of input images without using said

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binning function when said photographing operation is to be carried out in said second mode, with a first threshold value;

determining whether or not said first exposure time is equal to or shorter than said first threshold value;

making a first decision to take an image in said first mode if said first exposure time is equal to or shorter than said first threshold value;

~~comparing said second exposure time with~~ selecting a second threshold value different from said first threshold value; and

making a second decision to take an image in said second mode if said second ~~exposure time~~ threshold value is neither equal to or shorter than said ~~second~~ first threshold value.

Allowable Subject Matter

3. Claims 1 - 4, 19, and 20 (allowed claims 1 - 6) are allowed.

4. The following is an examiner's statement of reasons for allowance:

As to independent claims 1, 19, and 20 the combination of prior art references does not teach or fairly suggest the limitations cited within the claims.

As to claims 2 - 4, these claims are dependent upon allowable claims 1 and are thus also considered allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER K. PETERSON whose telephone number is (571)270-1704. The examiner can normally be reached on Monday - Friday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571)272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. K. P./

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12/14/2011

/Sinh Tran/

Supervisory Patent Examiner, Art Unit 2622